

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JANUARY 7, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of January 7, 2004, was called to order by Mayor Hansen at 5:34 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; *Silicon Energy Corp., v. City of Lodi et al.*, San Joaquin County Superior Court, Case No. CV016042
- b) Conference with Human Resources Director concerning Vacation Accrual Cap Policy regarding all bargaining units and unrepresented employees pursuant to Government Code §54957.6
- c) Conference with Labor Negotiator, Human Resources Director Joanne Narloch, regarding Association of Lodi City Employees concerning Maintenance and Operators pursuant to Government Code §54957.6

C-3 ADJOURN TO CLOSED SESSION

At 5:34 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:56 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:08 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

In regard to Item C-2 (a), on a motion of 4-1 with Council Member Land dissenting, Council provided settlement direction and authority to the City Attorney's Office.

In regard to Items C-2 (b) and (c), Council provided direction to its negotiators relative to the City's position to pursue.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of January 7, 2004, was called to order by Mayor Hansen at 7:08 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Richard Wheeler, Living Truth Christian Center.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

- D-3 (a) Council Member Hitchcock announced that the Martin Luther King Unity Celebration, coordinated by the Breakthrough Project, would be held on January 19 at Hutchins Street Square. She noted that 2004 was the first year that City Hall would be closed in recognition of Martin Luther King Day, which she stated is representative of Council's appreciation of diversity in the community.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Hitchcock second, unanimously approved the following items hereinafter set forth:

- E-1 Claims were approved in the amount of \$2,108,653.62.
- E-2 The minutes of November 18, 2003 (Shirtsleeve Session), November 19, 2003 (Regular Meeting), December 2, 2003 (Shirtsleeve Session), December 2, 2003 (Special Meeting), December 9, 2003 (Shirtsleeve Session), December 9, 2003 (Special Meeting), December 15, 2003 (Special Meeting), December 23, 2003 (Shirtsleeve Session), December 30, 2003 (Shirtsleeve Session), and December 30, 2003 (Special Meeting) were approved as written.
- E-3 Authorized the sale of scrap wire and metal during 2004.
- E-4 Received report of the sale of surplus equipment.
- E-5 Adopted Resolution No. 2004-01 approving the plans and specifications and authorizing advertisement for bids for the Pine Street Sidewalk Replacement Project (north side of Pine Street from School Street to the alley west of Sacramento Street) and authorizing the City Manager to award or reject the contract up to \$65,000; and appropriated funds.
- E-6 Approved the donation of retired bleachers to the Lodi-Tokay Rotary Club.
- E-7 Adopted Resolution No. 2004-02 awarding the contract for the Armory Park Ball Diamond Renovation, 333 North Washington Street, to A.M. Stephens Construction, of Lodi, in the amount of \$58,346.70; and appropriated \$63,500 in accordance with staff recommendation.
- E-8 Adopted Resolution No. 2004-03 approving the addendum to the improvement agreement for public improvements of Almondwood Estates, Tract No. 3273, directed the City Manager and City Clerk to execute the addendum to the improvement agreement on behalf of the City, and appropriated funds in the amount of \$48,070.
- E-9 Adopted Resolution No. 2004-04 approving the addendum to the improvement agreement for the public improvements of Century Meadows Two, Unit No. 4, Tract No. 3272, directed the City Manager and City Clerk to execute the addendum to the improvement agreement on behalf of the City, and appropriated funds in the amount of \$58,400 for the required reimbursement.
- E-10 Adopted Resolution No. 2004-05 approving the improvement agreement for public improvements at 312 and 316 South Sacramento Street (APN 045-310-02 and 045-310-03), directed the City Manager and City Clerk to execute the Agreement on behalf of the City, and appropriated funds in the amount of \$29,000 for the applicable reimbursements.
- E-11 Adopted Resolution No. 2004-06 approving a rental agreement between the City of Lodi and Richard and Teresa Mojica, dba Mojica's Batting Cages, for use of 125 E. Elm Street, Unit D.

- E-12 Adopted Resolution No. 2004-07 authorizing the City Manager to extend the consulting services agreement with McDonald Partners, Inc., through June 2004 to provide bulk power cost modeling and strategic services to the Electric Utility Department in the amount of \$70,000.
 - E-13 Adopted Resolution No. 2004-08 authorizing the City Manager to allocate a Public Benefits Program Grant in the amount of \$25,000 to Schaefer Systems International, Inc., for a process cooling equipment demand-side management project.
 - E-14 Adopted Resolution No. 2004-09 approving Memorandum of Understanding between City of Lodi and Lodi Police Mid-Management Organization.
 - E-15 Adopted Resolution No. 2004-10 amending Traffic Resolution 97-148 by approving the conversion from Yield to Stop Controls at the following three intersections: Chestnut Street at Pleasant Avenue, Chestnut Street at School Street, and Tamarack Drive at Lee Avenue.
 - E-16 Introduced Ordinance No. 1741 repealing and reenacting Lodi Municipal Code Chapter 12.06, Downtown Lodi Business Improvement Area No. 1, Section 12.06.090, "Collection of Benefit Fee," and Chapter 3.01, Business Tax Certification, Section 3.01.460, "Enforcement," relating to collection and enforcement of various fees.
 - E-17 Introduced Ordinance No. 1742 amending Title 9 – Public Peace, Morals, and Welfare, Chapter 9.08, "Offenses Against Property," by repealing and reenacting Section 9.08.150 of the Lodi Municipal Code relating to vehicles.
 - E-18 Set public hearing for January 21, 2004, to consider the reallocation of unobligated Community Development Block Grant funds in the amount of \$50,000 to the Salvation Army.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. PUBLIC HEARINGS

None.

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc., and Human Resources staff, the City Council, on motion of Council Member Land, Beckman second, unanimously rejected the following claim:

- a) Charles Mauch, date of loss 6/24/03

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Beckman second, unanimously adopted Resolution No. 2004-11 appointing the following four additional members to the Community Separator / Greenbelt Task Force:

Community Separator / Greenbelt Task Force

Kevin Sharrar
Bruce Fry
Bill Cummins
Carl Fink

In response to Council Member Land, City Clerk Blackston confirmed that she would send a copy of the resolution to the new members of the Greenbelt Task Force. Council Member Hitchcock reported that she had planned on meeting with Community Development Director Bartlam to develop a tentative meeting schedule for the Task Force.

b) "Appointment to the San Joaquin Partnership"

Council Member Land explained that his time constraints and extra demands placed on him at work made it difficult for him to attend the Partnership meetings.

MOTION #1 / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously appointed John Beckman as the Delegate to the San Joaquin Partnership:

MOTION #2 / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously appointed Emily Howard as the Alternate to the San Joaquin Partnership.

c) The City Council, on motion of Council Member Land, Beckman second, unanimously directed the City Clerk to post for the following expiring terms on the Site Plan and Architectural Review Committee:

Site Plan and Architectural Review Committee

Donald P. Kundert Term to expire January 1, 2004

Roger Stafford Term to expire January 1, 2004

H-4 Miscellaneous – None

I. REGULAR CALENDAR

I-1 "Update from Mayor Larry Hansen regarding audit (agreed-upon procedures) of Envision Law Group's billings"

Mayor Hansen reported that he and Council Member Hitchcock met with Robert Levy and David McMahon of the firm Barger & Wolen on December 30 and signed the contract. At that time he also provided them with a compact disc that contained billings from the litigation through 2002, and copies of the agreements with Envision Law Group and Lehman Brothers.

Council Member Land stated that the City has paid \$5.3 million from its enterprise fund to Envision Law Group. Lehman Brothers has spent \$15.3 million. Envision Law Group has accrued bills totaling \$6.4 million. He asked whether Barger & Wolen had decided how it would prioritize the audit. He expressed hope that they would begin with the \$5.3 million the City had paid.

Mayor Hansen replied that he would discuss this with Barger & Wolen.

Mayor Pro Tempore Beckman commented that he had previously asked the City Attorney how much the City was charged to have representatives from Envision Law Group at the Council meeting on October 1 and was informed that they had billed \$1,900. He recommended that Barger & Wolen consider that as part of the audit and add it to the list of charges the City should be credited for.

MOTION/ VOTE:

There was no Council action necessary on this item.

RECESS

At 7:34 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 7:43 p.m.

I. REGULAR CALENDAR (Continued)

- I-2 "Review options for conducting a public survey and authorize the City Manager to negotiate such services as determined by Council"

Deputy City Manager Keeter recalled that the concept of conducting a survey to gauge the public's sentiment regarding capital projects, programs, and general City services has been discussed many times over the years. The City is now at a critical juncture as it begins to focus on mid-year budget adjustments and the potential of budget shortfalls for this current fiscal year, as well as for 2004-05. A survey would provide citizens a voice in government and an opportunity to rate the importance of services the City provides. Ongoing feedback could be provided via an online citizen advisory board. Ms. Keeter stated that staff does not have the software necessary to facilitate the process, nor expertise in developing surveys, and is short staffed in every department due to the hiring freeze. In addition, she pointed out that there would be questions regarding the integrity of the survey if it were done in-house. DataCycles was identified as a highly respected and reputable firm with expertise in developing and implementing surveys. If the recommendation is approved tonight, the goal is to have the survey results by April 2. Ms. Keeter asked that following Steve Childs' presentation, Council authorize the City Manager to negotiate an agreement with DataCycles for conducting the Lodi survey in an amount up to \$31,500. The survey cost would be paid from fund balance of operating funds from electric, water, sewer, transit, and the general fund.

Steve Childs explained that DataCycles is a technology-based consulting firm that specializes in collecting, analyzing, and mapping a variety of information. It has a flexible and adaptable system that is proprietary and the company is a venture-funded enterprise. DataCycles has worked for the cities of Palo Alto, San Jose, Alameda, and Roseville. Mr. Childs reported that City Manager Flynn had recommended that 4,000 voters from the last election be drawn from a random selection and surveyed first. As a second phase to the project, all City residents would be asked to respond to the survey. An introductory postcard would be sent with a reminder card going out one week later to those who had not yet replied. Citizens would be able to respond via the internet or paper survey. The general survey would be promoted through utility bills, both with messages and an insert. Mr. Childs assured Council that all of the information is completely secure. With the use of an overhead projector he demonstrated Roseville's internet survey and accompanying reports.

In answer to Mayor Hansen, Mr. Childs reported that statisticians have analyzed DataCycles data and found 95%, + or - 5 points, confidence intervals. There are checks and balances in the system that look at scoring, time date stamps, etc. to ensure it is clean data. In addition there are firewalls and other protections within the system.

In reply to Council Member Howard, Mr. Childs confirmed that DataCycles had not provided services to an agency or business in San Joaquin County before. He stated that DataCycles manages 100% of its work and does not take partnerships. The random selection of voters will use more rigorous methodology and is the scientific portion of the survey. He explained that if one person (i.e. from the random voter group and general group) submitted two surveys it would not make any difference in the average scoring. The registration page asks for identifying information and duplicates are removed at the end of the process. DataCycles will work closely with staff on determining which services need to be ranked. The work is done on a project basis as a professional services agreement. DataCycles is a subscription-based service. The subscription is for one year; however, Mr. Childs stated that DataCycles deferred \$3,000 of the \$5,750 subscription price toward any future work that the City might want to do. The subscription covers its technology, data

hosting, data exports, user configuration, directory account, etc. The project fees are on a per project basis. The advisory panels also have a per project fee. Mr. Childs reported that of the \$22,750 cost, \$2,750 is for the subscription fee.

At the request of Council Member Hitchcock, Mr. Childs described the process of formulating questions for the survey. He stated that the City will own the data; however, identifying information of respondents will not be included because DataCycles promises total anonymity to participants.

In response to Council Member Land's suggestion of eliminating the random survey, Mr. Childs explained that the general survey is not scientific, and it would not result in a significant cost savings because most of the work is done in phase one.

Mayor Pro Tempore Beckman pointed out that Council was elected to make decisions and believed that this process would be abdicating the trust given to Council. Further, he stated that spending \$30,000 on a survey would not be a good use of the City's limited dollars. He noted that the public is afforded many ways to provide comments and feedback to Council Members, e.g. at every meeting, through e-mail, writing, phone calls, etc.

Council Member Hitchcock recommended that the survey also allow the public an opportunity to prioritize projects and express whether or not they would support a bond to pay for the projects.

Mayor Hansen believed that the survey results might allow an avenue for the "silent majority" to express its view.

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Hansen second, authorized the City Manager to negotiate a contract with DataCycles for the purpose of conducting a public survey. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – Beckman

Absent: Council Members – None

Following discussion, it was agreed to have Council included in the preview group for the survey. Mr. Childs indicated that the draft survey would be forwarded to Council electronically for solicitation of comments back to DataCycles.

RECESS

At 9:15 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:25 p.m.

I. REGULAR CALENDAR (Continued)

- I-3 "Adopt resolution authorizing staff to solicit proposals for a catering service and rental contract for Hutchins Street Square facilities and authorizing the City Manager to reject or award the contract"

Community Center Director Silvestre reported that most events scheduled at Hutchins Street Square require services of liquor licenses, catering, and concession personnel. An on-site caterer would allow staff to streamline services for City-sponsored events, as it would result in less time spent on paperwork for liquor licenses, obtaining the services of caterers, or acting as caterers and cleaning up afterwards. Ms. Silvestre explained that it would provide an added value to rental clients and noted that it is now an industry standard to offer on-site catering services. The service would not be a mandatory requirement for rental clients and, if chosen, would be charged back to the renter. She reported that 80%

of customers who call to rent space ask if an on-site caterer is available. She also stated that the City would gain additional revenue by renting the kitchen and small office space to a catering vendor at the current market rate. The kitchen and office space would not be intended as their main office; rather, it would be a satellite facility. Use fees to the service provider would be commensurate with the depreciation of the equipment in the building.

In answer to Council Member Howard, Ms. Silvestre reported that the contract would initially be for a one-year trial period. She confirmed that if a party opted to hire an outside caterer they would have full access to the kitchen and equipment.

PUBLIC COMMENTS:

- Former Community Center Director Charlene Lange pointed out that an on-site caterer would be especially beneficial to out of town customers who are unfamiliar with vendors in the area. She reiterated that approval of this request would be a revenue source for the City and assured Council that a choice would be offered to prospective customers.

Council Member Hitchcock recommended that a preference be given to Lodi caterers.

- Eddie Aguirre expressed hope that non-profit organizations would be allowed to bid as well.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Land second, unanimously adopted Resolution No. 2004-12 authorizing staff to solicit proposals for a catering service and rental contract for Hutchins Street Square facilities and authorizing the City Manager to reject or award the contract.

I-4 "Update on White Slough Water Pollution Control Facility improvements"

Public Works Director Prima reported that a contract was awarded for phase one construction, which is earthwork and underground work in preparation for installing filters. A change order was written for excavating work at DeBenedetti Park to bring dirt out to White Slough in preparation for the filters, which will save money on the phase two contract. PG&E promised the City a study in December as to how it would upgrade the power lines to serve the facility, but it has not yet been completed and is now anticipated in mid-January. Last month Council authorized a sole-source purchase for the \$1.5 million filters; however, staff is negotiating with a second supplier and expects an answer by next week. The UV disinfection equipment low bid came in at a little over \$1.9 million. Within the next few weeks staff intends to pursue purchase of the aeration panels. Mr. Prima anticipated returning to Council in April to award the phase two contract, which will be to install all the equipment and do other improvements at the plant. A \$25 million financing would cover the cost to purchase the equipment, the installation contract, and leave money to make land purchases and some additional work to get started on phase three. Staff will return to Council for financing phase three once the EIR is complete and more is known regarding discharge issues. He explained that phase three was planned to be relocation of the discharge and construction of the wetland.

In response to Mayor Hansen, Mr. Prima reported that approximately 300 customers take advantage of the 10% discount on water and wastewater, 800 for solid waste, and 1,300 for the 20% electric utility discount program. Mr. Prima stated that he would try to combine these programs for low-income customers and include this information in a future presentation to Council.

MOTION/ VOTE:

There was no Council action necessary on this item.

J. ORDINANCES

- J-1 Ordinance No. 1738 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 8 – Health and Safety – Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by Repealing and Reenacting Section 8.24.010 – 'Definitions,' Subsection '2,' and 8.24.040 – 'Liability,' Subsection 'F,' to the Lodi Municipal Code Relating to Abatement Action Cost and Recovery Issues"

Council Member Hitchcock expressed concern about Ordinances 1738 and 1739, due to Judge Damrell's December 22 opinion and severe criticism of the Comprehensive Municipal Environmental Response and Liability Ordinance (MERLO). She read portions of a "blue sheet" communication (filed) from Ron Bernasconi, in which he recommended that Council secure independent legal counsel prior to making any changes to the MERLO.

Mayor Pro Tempore Beckman asked the City Attorney whether the amendments to Ordinances 1738 and 1739 were changes that were ordered to be made by the U.S. Court of Appeals for the Ninth Circuit.

City Attorney Hays recalled that the amendments to the MERLO were calendared several months ago, but due to the length of the Council meetings, they were not acted upon. He pointed out that if they had not been delayed they would have been in place prior to Judge Damrell's decision. He stated that they have been brought to Council based upon a "playing out of the string" of the Ninth Circuit opinion in the Fireman's Fund case, which is not the case that is going to trial. The Ninth Circuit found 9 out of 11 challenges to the MERLO invalid. The amendments now presented to Council address questions that the Ninth Circuit raised relative to the MERLO.

Council Member Land reported that the actual dollars spent by the City so far out of its water fund has been \$5.3 million and of that amount, \$1 million went to the State of California for a settlement with Department of Toxic Substances Control. Thousands of dollars have been paid to an environmental group to do testing and gather data.

Council Member Hitchcock felt that it was important for Council to consider what has happened since the MERLO amendments were drafted and what the court is now informing the City. She reported that \$25 to \$30 million has been spent on the litigation thus far and \$7 million in interest has been accrued. She believed that it would be improbable for Lehman Bros. not to pursue payment. She urged Council not to adopt the ordinances until an outside legal opinion is obtained. She stated that the City Attorney has repeatedly not been forthcoming in reporting to Council what has been transpiring regarding the litigation and court opinions given by Judge Damrell. She asserted that Mr. Hays was in lock step with Michael Donovan and stated that, in terms of his representation for the City and citizens of Lodi, he might as well be a partner in the firm of Envision Law Group.

Council Member Howard was opposed to Council seeking the opinion of outside counsel and expressed her opinion that Mr. Hays was capable and thanked him for his patience. She believed that adopting the ordinances at this time would be responsible action on the part of the Council.

City Manager Flynn stated that he received a report listing all expenditures related to the environmental abatement program from 1996 through November 2003. He reported that legal fees totaled \$15.8 million and of that amount, \$2.6 to \$2.7 million was paid to the firm of Zevick Horton Guibord McGovern and \$13.2 million was paid to Envision Law Group. The Department of Toxic Substances Control was paid \$1,000,024,000. Environmental Forensics, Henshaw Services, technical labs, and project management were paid \$5.5 million. In total the amount paid has been \$23.5 million. The City to date has received \$14 million in proceeds from the Certificate of Participation. \$6.3 million was paid out of the water fund and the City was reimbursed \$3 million by USF&G.

Council Member Land asked Mr. Flynn for a copy of the report to which he was referring.

In response to Mayor Hansen, Mr. Flynn acknowledged that interest was not included in the amounts he reported. Mayor Hansen asked Mr. Flynn to make the calculation and report back.

Council Member Hitchcock pointed out that Mr. Flynn had also not reported the \$6 million in accrued expenses by Envision Law Group, which has not yet been paid.

John Meyer of Envision Law Group believed that Mr. Flynn had reported actual payments; however, they reflect only a portion of the bills actually received. He stated that the City has received complete bills for each billing cycle from the inception of the environmental abatement program, pursuant to fee agreements with the City, and portions of those bills have been paid.

In answer to Mayor Hansen, Finance Director McAthie explained that, based on the agreement, each billing goes through a cap. She believed that the difference between the amount paid to date and the cap was \$1.6 million.

Mayor Hansen stated that he felt many of the same frustrations that Council Member Hitchcock expressed. He acknowledged that the relationship has deteriorated between Envision Law Group attorneys and some Members of the Council, and it is evident that there is a lack of trust with Mr. Donovan and the City Attorney.

Mayor Pro Tempore Beckman commented that he was in agreement with Ms. Hitchcock and Mr. Hansen regarding some of the credibility, billing, and trust issues with Envision Law Group, and to a lesser extent, with the City Attorney. He believed that Ordinances 1738 and 1739 comply with suggestions made by the Ninth Circuit Court and that their adoption would help the City's current situation.

In answer to Mayor Pro Tempore Beckman, Mr. Meyer explained that he had been asked by the City Attorney to attend the meeting in order to be available to answer questions that might arise.

Council Member Hitchcock perceived that Mr. Hays had not answered a previous question by Mr. Beckman in a straightforward manner, and she clarified that the Ninth Circuit Court did not ask the City to make amendments to the MERLO.

At the request of the City Attorney, Council Member Beckman stated, in contradiction to Ms. Hitchcock, that Mr. Hays had done an adequate job of answering his question. It was his understanding that the Ninth Circuit Court felt that there were portions of the MERLO that were probably not legitimate. Ordinances 1738 and 1739 are an attempt to change the law so that it complies with the appellate court's interpretation of the constitution.

MOTION:

Ordinance No. 1738 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 8 – Health and Safety – Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, by Repealing and Reenacting Section 8.24.010 – 'Definitions,' Subsection '2,' and 8.24.040 – 'Liability,' Subsection 'F,' to the Lodi Municipal Code Relating to Abatement Action Cost and Recovery Issues," having been introduced at a regular meeting of the Lodi City Council held December 17, 2003, was brought up for passage on motion of Mayor Pro Tempore Beckman, Howard second.

DISCUSSION:

Council Member Hitchcock again urged Council to consider what Judge Damrell had said in his ruling regarding the MERLO. She stated that Judge Damrell was heavily critical of it and is forbidding the City to use the MERLO to collect attorneys fees and abatement costs. She believed that it would be detrimental to the City in the upcoming trial to adopt these ordinances.

VOTE:

Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Beckman, Howard, and Land
Noes: Council Members – Hitchcock and Mayor Hansen
Absent: Council Members – None
Abstain: Council Members – None

- J-2 Ordinance No. 1739 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 8 – Health and Safety – Chapter 8.24, Comprehensive Municipal Environmental Response and Liability, By Repealing and Reenacting Section 8.24.090 – 'Miscellaneous Provisions,' Subsections 'D' and 'E,' and Adding Subsection 'F' to the Lodi Municipal Code Relating to Availability of Contribution" having been introduced at a regular meeting of the Lodi City Council held December 17, 2003, was brought up for passage on motion of Mayor Pro Tempore Beckman, Howard second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Beckman, Howard, and Land
Noes: Council Members – Hitchcock and Mayor Hansen
Absent: Council Members – None
Abstain: Council Members – None

- J-3 Ordinance No. 1740 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 13 – Public Services by Adding Chapter 13.14 'Stormwater Management and Discharge Control' Relating to Stormwater" having been introduced at a regular meeting of the Lodi City Council held December 17, 2003, was brought up for passage on motion of Council Member Hitchcock, Beckman second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hitchcock asked the City Manager to provide Council with the report he referenced at the December 17 meeting, which outlined the current status of the general fund. She requested that an item be placed on the next agenda to authorize the retention of outside counsel to provide legal advice to Council in regard to the pending renegotiation of the contract with Envision Law Group.
- Mayor Hansen noted that Finance Director McAthie would soon be retiring and he commended her for doing an outstanding job and for her professionalism.
- Mayor Pro Tempore Beckman reported that during the meeting he received five cellular phone voice mail messages in support of the City conducting a public survey and two in opposition.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn reported that Finance Director McAthie has agreed to work a couple of days every week through June 30 and will be available at Council meetings. He announced that today was Mayor Pro Tempore Beckman's birthday.

Continued January 7, 2004

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:20 p.m.

ATTEST:

Susan J. Blackston
City Clerk